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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/163,207	09/29/98	ADIFON	L 4167-18

EXAMINER	
MCALLISTER, S	
ART UNIT	**PAPER NUMBER**
3652	15
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RANDY G. HENLEY
OTIS ELEVATOR COMPANY
PATENT DEPARTMENT
TEN FARM SPRINGS
HARTFORD CT 06032

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/163,207	Applicant(s) Adifon et al
	Examiner Steven B. McAllister	Group Art Unit 3652

☒ Responsive to communication(s) filed on *Nov 6, 2000* .

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1, 2, and 4-23* is/are pending in the application.

Of the above, claim(s) *4, 5, 9, 11, 12, 14-17, and 19-23* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1, 2, 6-8, 10, 13, and 18* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Election/Restriction

1. Newly submitted claims 19-23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: applicant elected Species 1, drawn to Fig. 1 in a telephonic interview (see paper no. 8). Claims 19-23 recite a rope extending horizontally from the drive motor to a diverter sheave and then vertically to the elevator car. This configuration is not part of Species 1, but rather part of Species 5, drawn to Fig. 8.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 19-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Request for Continued Examination

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/6/00 has been entered.

3. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, THIS ACTION IS MADE FINAL even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (JP 51-148093).

Takahashi shows all elements of the claim including a hoistway ceiling comprising the hatched surface at the top of the hoistway (see Fig. 1); the drive motor 5 being located immediately adjacent to one of a top and bottom portion of a hoistway door, in this case above and adjacent a top portion of a topmost door (see Fig. 1). It also shows the drive motor below the hoistway ceiling. Although not clearly shown, the reference inherently discloses a plurality of hoistway doors since an elevator system requires a plurality of floors.

As to claim 6, it is noted that Takahashi discloses that the motor is enclosed relative to the adjacent hallway by a housing comprising the ceiling of the hallway and the walls and ceiling of the machine room at the top of the hoistway (see Fig. 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 7, 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Sugiyama (JP 63-178277).

Takahashi discloses all elements of the claim except a movable panel protruding into the elevator hallway above the hoistway door. Sugiyama discloses a movable panel 7 protruding into a landing (Fig. 5). Given the position of the motor and the elevator door, the movable panel would inherently be located above and be accessible from a position in front of the hoistway door. It would have been obvious to one of ordinary skill in the art to modify the housing of Takahashi

by adding the movable panel of Sugiyama in order to facilitate easier and safer access to the motor for inspection and maintenance.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Moore.

Takahashi, as previously discussed, discloses a housing the motor, but does not disclose that the drive and controller are collocated with the motor in the housing. Moore shows the motor 19, controller 20, and drive 21 collocated. It would have been obvious to one of ordinary skill in the art modify the apparatus of Takahashi by housing the motor, drive and controller together as taught by Moore in order to facilitate maintenance.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Aulanko et al (5,490,578).

Takahashi discloses all elements of the claim except at least two sheaves on the bottom of the elevator car wherein a portion of the elongated connector underslings the car. Aulanko et al disclose two sheaves 4, 5 under the car and further discloses that the elongated connector 3 underslings the car. It would have been obvious to one of ordinary skill in the art to modify the elevator of Takahashi by using the roping configuration of Aulanko et al in order to ease the load on the motor.

Response to Arguments

7. Applicant's arguments filed on 5/11/2000 have been fully considered but they are not persuasive.

Regarding claims 1-3,6-8, 10 and 13, applicant argues that the drive motor is not located immediately adjacent the top portion of a hoistway door. However, it is noted that Fig. 1 Takahashi shows that the motor is located immediately adjacent to the top of the door, especially when the scope of the elevator system as a whole and the disclosure of Fig. 1 of the instant application is considered. Merriam Webster's Collegiate Dictionary, 10 Ed. gives a primary definition of "adjacent" as "not distant: nearby". Given the concept that the motor is "immediately nearby" the top of the hoistway door, no clear distinction between Fig. 1 of Takahashi and Fig. 1 of the instant application is apparent. In both cases, the top of the door and the motor are separated by a (from the motor to the door) mounting brackets, a substantial empty space, and the door header structure. There is a substantial distance between the two parts in Fig. 1 of the application and substantial structure therebetween. Assuming that there is an enabling disclosure of immediate adjacency in Fig. 1, the motor of Takahashi can reasonably be construed as "immediately adjacent" the door top.

In response to applicant's arguments against the references of Takahashi and Sugiyama individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the stated motivation for the combination of Takahashi and Aulanko in claim 13 is not to minimize required headroom, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

Steven B. McAllister

December 14, 2000

12/14/00

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600